



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,456	01/28/2002	Gordon R. Wren	PHN01-001	4151

7590 05/17/2006

Gordon R. Wren  
Phun From Phoenix !, Inc.  
P.O. Box 25583  
Tempe, AZ 85285-5583

EXAMINER

AMERSON, LORI BAKER

ART UNIT PAPER NUMBER

3764

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/056,456

Applicant(s)

WREN, GORDON R.

Examiner

L. Amerson

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 7-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. The indicated allowability of claims 7-17 is withdrawn in view of the newly discovered reference(s) below. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 7-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al in view of Nakasuji et al. Baron et al discloses all of the limitations except for the device being devoid of printing and cooperative with a marking instrument. Nakasuji et al teaches a device being devoid of printing and cooperative with a marking instrument. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a device with indicia for instruction or decorative purposes.

b. Claims 7-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards in view of Nakasuji et al. Baron et al discloses all of the limitations except for the device having printing cooperative with a marking instrument. Nakasuji et al teaches a printing cooperative with a marking instrument. It would have been obvious to one having ordinary skill in the art at

Art Unit: 3764

the time the invention was made to design a device with indicia for instruction or decorative purposes.

c. Claims 7-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al in view of Engel. Baron et al discloses all of the limitations except for the device being devoid of printing and cooperative with a marking instrument. Engel teaches a device being devoid of printing and cooperative with a marking instrument. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a device with indicia for instruction or decorative purposes.

d. Claims 7-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al in view of Todokoro et al. Baron et al discloses all of the limitations except for the device being devoid of printing and cooperative with a marking instrument. Todokoro et al teaches a device being devoid of printing and cooperative with a marking instrument. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a device with indicia for instruction or decorative purposes.

e. Claims 7-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al in view of Steinhauser et al. Baron et al discloses all of the limitations except for the device being devoid of printing and cooperative with a marking instrument. Steinhauser et al teaches a device being devoid of printing and cooperative with a marking instrument. It would have been

obvious to one having ordinary skill in the art at the time the invention was made to design a device with indicia for instruction or decorative purposes.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Form 892. Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LORI AMERSON  
PRIMARY EXAMINER  
